

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

UNITED STATES OF AMERICA

v.

CASE NO: 8:19-cr-258-T-35AAS

RACHEL MARCELLA SMITH

ORDER

THIS CAUSE is before the Court on the Defendant Rachel Marcella Smith's Motion to Suppress Evidence. (Dkt. 23) Defendant seeks to suppress all testimonial and physical evidence seized during and after the Defendant's June 3, 2019 post-arrest interview at the St. Petersburg Police Department. Upon consideration of all relevant filings, case law, and being otherwise fully advised, the Court **DENIES** Defendant's Motion.

Defendant argues that the evidence obtained during her post-arrest interview and the search of her room in her home was obtained in violation of the Fourth Amendment of the United States Constitution and should be suppressed pursuant to Federal Rule of Criminal Procedure 12(b)(3)(C). The Fourth Amendment protects individuals from unreasonable searches and seizures. U.S. Const. amend. IV; United States v. Jordan, 635 F.3d 1181, 1185 (11th Cir. 2011). Generally, absent consent, law enforcement must obtain a warrant supported by probable cause to justify a search or seizure under the Fourth Amendment. Voluntariness of a consent to a police search is a factual inquiry determined by reference to the totality of the circumstances. United States v. Chemaly, 741 F.2d 1346, 1352 (11th Cir. 1984). Relevant factors to determine voluntariness, none


of which are dispositive in and of themselves, include: 1) the voluntariness of a defendant's custodial status; 2) the presence of coercive police procedure; 3) the extent and level of a defendant's cooperation with the police; 4) a defendant's awareness of her right to refuse to consent to the search; 5) a defendant's education and intelligence; and 6) a defendant's belief that no incriminating evidence will be found. Id.

After reviewing the video and the Defendant's motion and memorandum, the Court finds that there is no evidence of intimidation or coercion of the Defendant in securing her consent. Police officers did not use inappropriate tactics or threatening behavior to secure the Defendant's cooperation. The Defendant remained calm while cooperating with the officers, was properly read her *Miranda* rights, and freely and voluntarily gave consent during the interview to the search of her room in her home. When officers arrived at the home, the Defendant's sons, who were onsite at the point of the search while the Defendant was offsite in the interrogation room, challenged the planned entry and search. The Defendant intervened via telephone and insisted that her sons allow officers to enter the residence and search her room. This was not a forced action but was undertaken by the Defendant of her own volition. The Defendant does not suggest that the search exceeded the consent that she freely gave. Therefore, based on the totality of the circumstances, and given the Defendant's express consent, the Defendant cannot show that the testimonial and physical evidence seized during and after the Defendant's June 3, 2019 post-arrest interview at the St. Petersburg Police Department was illegally obtained.

Accordingly, it is **ORDERED** as follows:

1. Defendant Rachel Marcella Smith's Motion to Suppress Evidence, (Dkt. 23),
is hereby **DENIED**.
2. The Court finds no basis for an evidentiary hearing.

DONE and ORDERED in Tampa, Florida, this 3rd day of December, 2019.



MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of Record
U.S. Marshal Service
U.S. Probation Office
U.S. Pretrial